

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN INTERIM ORDER concerning the Administrative Law Judges' Proposal for Decision and Proposed Order Regarding the Application by Port of Corpus Christi Authority of Nueces County for Texas Pollutant Discharge Elimination System Permit No. WQ0005253000; TCEQ Docket No. 2019-1156-IWD; SOAH Docket No. 582-20-1895.

On May 19, 2021, the Texas Commission on Environmental Quality (Commission) considered the Application of the Port of Corpus Christi Authority of Nueces County (Applicant) for Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0005253000. A Proposal for Decision (PFD) was submitted by Rebecca S. Smith and Cassandra Quinn, Administrative Law Judges (ALJs) with the State Office of Administrative Hearings (SOAH), on February 5, 2021. The PFD recommended that the Application be denied.

After considering the ALJs' PFD, oral argument of the parties, and the filings in this matter, the Commission determined to remand the matter to SOAH.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

- I. This matter is hereby **REMANDED** to SOAH to:
 1. Apply the appropriate legal standard for non-numeric criteria found in 30 Texas Administrative Code § 307.6(e)(1) for evaluating the impacts to aquatic organisms that move through a zone of initial dilution; and

2. Take additional evidence on the following issues:

A) Whether the proposed discharge will adversely impact: the marine environment, aquatic life, and wildlife, including birds and endangered or threatened species, spawning eggs, or larval migration;

C) Whether the proposed discharge will adversely impact recreational activities, commercial fishing, or fisheries in Corpus Christi Bay and the ship channel;

D) Whether the Application, and representations contained therein, are complete and accurate;

G) Whether the modeling complies with applicable regulations to ensure the Draft Permit is protective of water quality, including utilizing accurate inputs;

H) Whether the Executive Director's antidegradation review was accurate; and

I) Whether the Draft Permit includes all appropriate and necessary requirements;

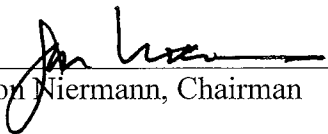
II. A 30-day deadline is **SET** from the issuance of the Commission's Order for the Applicant to provide revised information to all parties including the depth of the channel, site-specific ambient velocity, and the depth of the diffuser;

III. The parties are allowed 30 days to review the revised information before setting a preliminary hearing;

IV. The maximum duration of the hearing is **SET** at 120 days from the first day of the preliminary hearing on remand to the issuance of the proposal for decision; and

- V. If any provision, sentence, clause or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY



Jon Niemann, Chairman

5/26/21

Date Signed